

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

**IN RE: ORAL PHENYLEPHRINE  
MARKETING AND SALES PRACTICES  
LITIGATION**

**MDL No. 1:23-md-3089-BMC**

**This Document Relates to  
ALL CASES**

**DEFENDANTS' JOINT RESPONSE TO PLAINTIFFS' AMENDED MOTION  
FOR AN ORDER APPOINTING PLAINTIFFS' PROPOSED LEADERSHIP  
STRUCTURE AND APPOINTING INTERIM CLASS COUNSEL**

Defendants file this response to Plaintiffs' Amended Motion for an Order Appointing Plaintiffs' Proposed Leadership Structure and Appointing Interim Class Counsel (See ECF No. 135.) Defendants take no position on Plaintiffs' proposed leadership structure, although Defendants reserve their rights, including the right to challenge the efficiency of the proposed structure. Defendants attempted to comply with the Court's request that the parties attempt to resolve leadership issues by stipulation rather than by motion. (*See* ECF No. 5 at 5.) However, Plaintiffs were unwilling to limit the scope of that stipulation to the appointment of "lead counsel and liaison counsel" as the Court requested (*id.*) but insisted on additionally moving for appointment of interim class counsel. Defendants oppose as premature the appointment of interim class counsel and intend to submit as a proposed agenda item for the initial status conference the question of whether the appointment of interim class counsel is appropriate or necessary at this stage. *See* ECF No. 5, [Proposed] Case Management Order No. 1, Section V.

Defendants do not believe there is any need for a formal organization of defense counsel at this time, including the appointment of Defendants' lead counsel or Defendants' liaison counsel. Defendants will continue to coordinate amongst themselves and with Plaintiffs' counsel to ensure the litigation progresses in an efficient manner.

Dated: February 28, 2024

Respectfully Submitted:

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